

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

CHRISTINE HAMMEL-FOGLEBOCH,
Individually and as Administrator of the
Estate of CHARLES HAMMEL,
Deceased

Civil Action No.: 17-CV-04500-JNE-FLN

Plaintiff,

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

NOW COMES Plaintiff, Christine Hammel-Fogleboch, Individually and as Administrator of the Estate of Charles Hammel, Deceased, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1124], and by and through undersigned counsel submits this, her Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

1. In October of 2015, Mr. Charles Hammel contacted undersigned counsel regarding an infection and subsequent treatment that he experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery.
2. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicated that a Bair Hugger device was used during the original surgery.

3. Mr. Hammel passed away sometime prior to May 2017.
4. On September 29, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.
5. Efforts to have Mrs. Christine Hammel-Fogleboch, the daughter of Mr. Hammel who was identified in the short form complaint, complete the Plaintiff Fact Sheet and submit the necessary probate paperwork have been complicated by the inability to contact Mrs. Hammel-Fogleboch. Counsel for Plaintiff believe that additional time could allow them to contact Mrs. Hammel-Fogleboch and complete the Plaintiff Fact Sheet.
6. While counsel has diligently continued their attempts to contact Mrs. Hammel-Fogleboch for several months, those efforts have not been successful to date.
7. As a result, counsel has not been able to obtain the necessary information to complete the Plaintiff Fact Sheet for this claim.

Accordingly, undersigned counsel request that the current action not be dismissed with prejudice and that Mrs. Hammel-Fogleboch be given an additional sixty (60) days to contact counsel in order to provide the necessary information to cure any alleged deficiencies with the Plaintiff Fact Sheet and to continue the case on behalf of her father's estate.

Dated: March 8, 2018

KENNEDY HODGES, LLP

By: /s/ David W. Hodges
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on March 8, 2018 a copy of the forgoing instrument was served on all parties via the Court's electronic filing system.

By: /s/ David W. Hodges
David W. Hodges